

[Cite as *Wertenberger v. Ohio Veterans Home Agency*, 2006-Ohio-191.]
IN THE COURT OF CLAIMS OF OHIO

MARGARET WERTENBERGER :
Plaintiff :
v. : CASE NO. 2005-11027-AD
OHIO VETERANS HOME AGENCY : MEMORANDUM DECISION
Defendant :

: : : : : : : : : : : : : : : :

FINDINGS OF FACT

{¶ 1} 1) On November 16, 2005, plaintiff, Margaret Wertenberger, filed a complaint against defendant, Ohio Veterans Home, alleging her deceased husband's wheelchair accessories were lost while under the custody and care of defendant's staff. Plaintiff seeks damages in the amount of \$44.93 for replacement wheelchair parts. The filing fee was paid.

{¶ 2} 2) On November 28, 2005, defendant filed an investigation report admitting responsibility for plaintiff's claimed loss. Defendant agreed plaintiff should be awarded damages in the amount of \$44.93, plus \$25.00 for filing fee reimbursement.

{¶ 3} 3) On December 12, 2005, plaintiff filed a response.

CONCLUSIONS OF LAW

{¶ 4} 1) In regard to the facts of this claim, negligence on the part of defendant has been shown. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶ 5} 2) Plaintiff has suffered damages in the amount of \$44.93, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of*

Rehabilitation and Correction (1990), 62 Ohio Misc. 2d 19.

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MARGARET WERTENBERGER	:	
	:	
Plaintiff	:	
	:	
v.	:	CASE NO. 2005-11027-AD
	:	
OHIO VETERANS HOME AGENCY	:	<u>ENTRY OF ADMINISTRATIVE</u>
	:	<u>DETERMINATION</u>
Defendant	:	

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Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff in the amount of \$69.93, which includes the filing fee. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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4618 Pinewood Drive #222
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Plaintiff, Pro se

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For Defendant

RDK/laa
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